

*Administration of Joseph R. Biden, Jr., 2023*

**Memorandum on Extending and Expanding Eligibility for Deferred Enforced Departure for Certain Hong Kong Residents**

*January 26, 2023*

*Memorandum for the Secretary of State and the Secretary of Homeland Security*

*Subject:* Extending and Expanding Eligibility for Deferred Enforced Departure for Certain Hong Kong Residents

The United States supports the human rights and fundamental freedoms of the residents of Hong Kong. The People's Republic of China (PRC) has continued to erode those rights and freedoms, and as such I am directing an extension and expansion of the deferral of removal of certain Hong Kong residents who are present in the United States.

By unilaterally imposing on Hong Kong the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NSL) in June 2020, the PRC has undermined the enjoyment of rights and freedoms in Hong Kong, including those protected under the Basic Law and the Sino-British Joint Declaration. The PRC has continued its assault on Hong Kong's autonomy, undermining its remaining democratic processes and institutions, imposing limits on academic freedom, and cracking down on freedom of the press. Since June 2020, at least 150 opposition politicians, activists, and protesters have been taken into custody on politically motivated NSL-related charges including secession, subversion, terrorist activities, and collusion with a foreign country or external elements. Over 1,200 political prisoners are now behind bars, and over 10,000 individuals have been arrested for other charges in connection with anti-government protests.

There are compelling foreign policy reasons to extend Deferred Enforced Departure (DED) for an additional period for those residents of Hong Kong presently residing in the United States who were under a grant of DED until February 5, 2023, as well as to defer enforced departure for other Hong Kong residents who arrived in the United States subsequent to the initial grant of DED. The United States is committed to a foreign policy that unites our democratic values with our foreign policy goals, which is centered on the defense of democracy and the promotion of human rights around the world. Offering safe haven for Hong Kong residents who have been deprived of their guaranteed freedoms in Hong Kong furthers United States interests in the region. The United States will continue to stand firm in our support of the people in Hong Kong.

Pursuant to my constitutional authority to conduct the foreign relations of the United States, I have determined that it is in the foreign policy interest of the United States to defer for 24 months the removal of any Hong Kong resident who is present in the United States on the date of this memorandum, except for those:

- (1) who have voluntarily returned to Hong Kong or the PRC after the date of this memorandum;
- (2) who have not continuously resided in the United States since the date of this memorandum;
- (3) who are inadmissible under section 212(a)(3) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(a)(3)) or deportable under section 237(a)(4) of the INA (8 U.S.C. 1227(a)(4));

- (4) who have been convicted of any felony or two or more misdemeanors committed in the United States, or who meet any of the criteria set forth in section 208(b)(2)(A) of the INA (8 U.S.C. 1158(b)(2)(A));
- (5) who are subject to extradition;
- (6) whose presence in the United States the Secretary of Homeland Security has determined is not in the interest of the United States or presents a danger to public safety; or
- (7) whose presence in the United States the Secretary of State has reasonable grounds to believe would have potentially serious adverse foreign policy consequences for the United States.

I further direct the Secretary of Homeland Security to take appropriate measures to authorize employment for noncitizens whose removal has been deferred, as provided by this memorandum, for the duration of such deferral, and to consider suspending regulatory requirements with respect to F-1 nonimmigrant students who are Hong Kong residents as the Secretary of Homeland Security determines to be appropriate. The Secretary of Homeland Security shall also provide for the prompt issuance of new or replacement documents in appropriate cases.

The Secretary of Homeland Security is authorized and directed to publish this memorandum in the *Federal Register*.

JOSEPH R. BIDEN, JR.

[Filed with the Office of the Federal Register, 8:45 a.m., January 30, 2023]

NOTE: This memorandum was published in the *Federal Register* on January 31.

*Categories:* Communications to Federal Agencies : Hong Kong residents, eligibility for deferred enforced departure from U.S., memorandum on extension and expansion.

*Names:* Mayorkas, Alejandro N.

*Subjects:* China, political status of Hong Kong; Civil and human rights, U.S. promotion efforts; Foreign nationals and refugees, U.S. admission policy; Hong Kong residents, deferred enforced departure from U.S.; Hong Kong, political status with respect to mainland China; Secretary of Homeland Security.

*DCPD Number:* DCPD202300057.